

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 27, 2015

1:04 p.m.

MEMBERS PRESENT

Representative Wes Keller, Vice Chair
Representative Bob Lynn
Representative Charisse Millett
Representative Max Gruenberg
Representative Matt Claman

MEMBERS ABSENT

Representative Gabrielle LeDoux, Chair
Representative Neal Foster

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 15

Denouncing the decision to reverse the suspensions of the federal prosecutors who intentionally withheld evidence of innocence from the defense of Senator Ted Stevens; and honoring the service of Senator Ted Stevens.

- MOVED CSHJR 15(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 15

SHORT TITLE: HONOR TED STEVENS; DISCIPLINE PROSECUTORS

SPONSOR(s): RULES BY REQUEST

02/13/15	(H)	READ THE FIRST TIME - REFERRALS
02/13/15	(H)	JUD
02/27/15	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE BOB HERRON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 15 on behalf of the House Rules Committee and answered questions.

TIM MCKEEVER

Anchorage, Alaska

POSITION STATEMENT: Testified in support of United States Senator Ted Stevens and HJR 15.

ACTION NARRATIVE:

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VICE CHAIR WES KELLER called the House Judiciary Standing Committee meeting to order at 1:04 p.m. Representatives Millett, Gruenberg, Lynn, and Keller were present at the call to order. Representative Claman arrived as the meeting was in progress.

HJR 15-HONOR TED STEVENS; DISCIPLINE PROSECUTORS

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VICE CHAIR KELLER announced that the only order of business would be HOUSE JOINT RESOLUTION NO. 15, Denouncing the decision to reverse the suspensions of the federal prosecutors who intentionally withheld evidence of innocence from the defense of Senator Ted Stevens; and honoring the service of Senator Ted Stevens.

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REPRESENTATIVE BOB HERRON, Alaska State Legislature, paraphrased the following sponsor statement [original punctuation provided]:

"Denouncing the decision to reverse the suspensions of the federal prosecutors who knowingly withheld evidence of innocence from the defense of Senator Ted Stevens; and honoring the service of Senator Ted Stevens."

Sponsor Statement

Senator Stevens contributions to the state are obviously too long to list, but included helping to craft key federal legislation that has immensely benefited Alaska, such as the Alaska Native Claims Settlement Act, the Trans-Alaska Pipeline Authorization Act, and the Magnuson-Stevens Fishery Conservation and Management Act. On July 29, 2008, Alaskan Senator Theodore Fulton "Ted" Stevens, Sr., was wrongfully indicted for allegedly failing to

disclose the value of renovations to his cabin. After trial, Attorney General of the United States, Eric Holder, asked that the verdict be set aside when it was discovered that federal prosecutors unlawfully withheld exonerating evidence from the defense. Judge Sullivan subsequently appointed a special counsel to investigate the prosecutors. On May 23, 2012, United States Associate Deputy Attorney General Scott N. Schools issued a final decision approving the disciplinary action proposed by Kevin Ohlson, chief of the Professional Misconduct Review unit, that federal prosecutor Joseph Bottini be suspended for 45 days and federal prosecutor James Goeke be suspended for 15 days. On January 2, 2015 the United States Merit Systems Protection Board upheld a 2013 ruling by an administrative judge finding that the United States Department of Justice violated its own rules when it suspended prosecutors Joseph Bottini and James Goeke.

HJR 15 Resolves that the Alaska State Legislature:

- Supports the full and fair exoneration of Senator Ted Stevens;
- Denounces the decision to reverse the suspensions of the federal prosecutors who intentionally withhold evidence from the defense of Senator Stevens;
- Requests the Alaska Bar Association determine whether federal prosecutors in the Stevens case violated the Alaska Rules of Professional Conduct;
- Honors the distinguished leadership of Senator Stevens to the State of Alaska on many issues that the state still faces today; and
- Further honors the importance of Senator Stevens' service and legacy as a vital part of the history of the State of Alaska.

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REPRESENTATIVE HERRON continued that it seems ironic that two wrongs were allowed in the case of Senator Stevens and opined that within the purview of the Department of Justice two wrongs equal one right against the powerful United States Senator Ted Stevens. He advised that what happened to "Uncle Ted" ... if

you become a target of the Department of Justice for whatever reason the same thing can happen to anyone.

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VICE CHAIR KELLER advised that the committee had just received an Omnibus Amendment to HJR 15 from Representative Gruenberg.

The committee took a brief at-ease.

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VICE CHAIR KELLER opened public testimony.

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TIM MCKEEVER, stated he worked with Senator Stevens for many years and opined that HJR 15 should be adopted by the legislature. He further opined that it is warranted for the legislature to acknowledge his [many years of service] and to address the misconduct of the prosecutors. The principle goal of a prosecutor is to do justice and not necessarily to convict people regardless of the evidence, and to make sure evidence is presented so it can be properly evaluated and considered. He said the record shows that the prosecutors involved in this case disregarded that obligation, presented evidence they knew to be false, and failed to disclose exculpatory evidence showing that the Senator had not performed the conduct they described. He expressed it is unfortunate that although the Department of Justice initially determined that the prosecutors deserved "what is probably a very mild sanction" for their misconduct. The Department of Justice then mishandled the investigation review process which ultimately lead to the decision by the United States Merit Systems Protection Board that although the prosecutors had acted improperly, the punishment that the Department of Justice had proposed was inadequate or improper. He urged the legislature to enact HJR 15 to recognize and honor Senator Stevens.

VICE CHAIR KELLER closed public testimony after ascertaining no one further wished to testify.

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REPRESENTATIVE GRUENBERG moved to adopt Conceptual Amendment 1, which read [original punctuation provided]:

Page 1, line 7, before "Senator" insert "Republican" and delete his party"

Page 1, line 10 delete "immensely" and insert "greatly" and delete "certainly"

Query, page 1, lines 13-14, should "pro tempore" and "pro tempore emeritus" be capitalized

Page 2, lines 5-6, before "United States" insert "the" and after "guilty" insert "District Court Judge Emmet G. Sullivan" and before "on July" insert "for the District of Columbia"

Page 2, lines 12, after "Judge", delete "Emmet G."

Page 2, line 14, after "indictment" delete ";" and insert ","

Page 3, line 5, after "Association" insert" and any other appropriate bar associations"

Page 3, line 6, after "Conduct" insert "and any other applicable codes of professional conduct"

REPRESENTATIVE CLAMAN objected for purposes of discussion.

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REPRESENTATIVE GRUENBERG advised that the conceptual amendment is mainly grammatical.

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REPRESENTATIVE GRUENBERG moved to adopt Amendment 1 to Conceptual Amendment 1, which read [original punctuation provided]:

Page 2 line 11 after "critical" delete ","

REPRESENTATIVE GRUENBERG requested unanimous consent that Amendment 1 to Conceptual Amendment 1 be adopted.

VICE CHAIR KELLER said seeing no objection, Amendment 1 to Conceptual Amendment 1 is adopted.

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REPRESENTATIVE HERRON remarked that Conceptual Amendment 1 is "outstanding" and advised that Representative Gruenberg, Senator McGuire, and himself, previously worked for "Senator Ted."

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REPRESENTATIVE LYNN referred to adding "Republican" rather than "his party" and remarked this is about a person more than a party. He questioned whether this [sentence] makes it more partisan than it should be and suggested taking any partisan reference out of HJR 15.

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REPRESENTATIVE GRUENBERG opined that Senator Stevens was proud of his party and it was appropriate to give the party a little credit. Representative Gruenberg offered to withdraw that portion of the amendment.

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REPRESENTATIVE LYNN said he is comfortable either way and wanted to lay the idea on the table for comments. He opined he does not want it to be partisan because Senator Stevens would have been a good senator for either party.

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REPRESENTATIVE KELLER said he likes the amendment because Senator Stevens valued the party and the platform of the party.

REPRESENTATIVE MILLETT said she agrees with Representative Gruenberg on the republican [amendment].

REPRESENTATIVE CLAMAN withdrew his objection.

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VICE CHAIR KELLER stated that seeing no further objection, Conceptual Amendment 1 is adopted.

VICE CHAIR KELLER put HJR 15 before the committee for discussion.

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REPRESENTATIVE GRUENBERG advised that he and Representative Herron have accumulated documents for the committee's review. He pointed out that there have been a number of exonerations ... "I have an article that says exonerations hit record high in 2014." He explained that those [calculations] are across the country, and another [article] reads "hundreds of department ... justice department attorneys violated professional rules, laws or ethical standards", which is from the POGO [Project on Government Oversight] report. He offered that Texas Governor Rick Perry signed a law that aims to avoid wrongful convictions by preventing prosecutors from suppressing evidence and he would be researching this issue.

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REPRESENTATIVE MILLETT moved to report HJR 15, Version 29-LS0410\F, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 15(JUD), moved from committee.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:25 p.m.